



ANALYSIS

<p>Title</p> <p>1. Short Title</p> <p>2. Registration of documents following change of owner</p> <p>3. Contracts by General Manager deemed to be made on behalf of Crown</p>	<p>4. Provisional registration of mortgages to Crown or State Loan Department</p> <p>5. Sinking fund to provide compensation for lessees of Maori land</p> <p>6. Transitional provision</p>
--	---

1991, No. 42

An Act to amend the Maori Affairs Restructuring Act 1989

[20 June 1991

BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title—This Act may be cited as the Maori Affairs Restructuring Amendment Act 1991, and shall be read together with and deemed part of the Maori Affairs Restructuring Act 1989 (hereinafter referred to as the principal Act).

2. Registration of documents following change of owner—The principal Act is hereby amended by inserting, after section 13, the following section:

“13A. (1) No Registrar of Deeds or District Land Registrar or any other person charged with the keeping of any books or registers shall be obliged solely by reason of the provisions of section 8 or section 12 of this Act to change the name of the Department of Maori Affairs to that of the Iwi Transition Agency or (as the case may require) the name of the Board of Maori Affairs to that of the General Manager of the Iwi Transition Agency in any books, registers, or other documents in his or her charge; and the presentation to any such Registrar or other person of any instrument—

“(a) Executed or purporting to be executed by the Iwi Transition Agency or by the General Manager of the Iwi Transition Agency; and

“(b) Relating to any property held immediately before the 1st day of October 1989 by the Department of Maori Affairs or (as the case may require) by the Board of Maori Affairs; and

“(c) Containing a recital that the property has become vested in the Iwi Transition Agency or (as the case may require) in the General Manager of the Iwi Transition Agency,—

shall, in the absence of proof to the contrary, be sufficient evidence that the property is vested in the Agency or General Manager.

“(2) Except as provided in subsection (1) of this section, nothing in this Act shall derogate from the provisions of the Land Transfer Act 1952.”

3. Contracts by General Manager deemed to be made on behalf of Crown—Section 16 of the principal Act is hereby amended by inserting, after the words “this Part”, the words “and Part III”.

4. Provisional registration of mortgages to Crown or State Loan Department—The principal Act is hereby amended by inserting, after section 86, the following section:

“86A. (1) This section shall apply in any case where a memorandum of mortgage to Her Majesty or to a State Loan Department affecting any area of Maori freehold land, or a memorandum of lease or other disposition of any such land, cannot be immediately registered under the Land Transfer Act 1952 by reason of the fact that any order of the Court constituting the title to that land has not been so registered.

“(2) In any case to which this section applies, the Registrar of the Court, on request made by or on behalf of the mortgagee, shall forward to the District Land Registrar of the district in which the land is situated a certificate under his or her hand setting forth with respect to the land the following particulars:

“(a) The kind or order constituting the title to the land to which the mortgage relates:

“(b) The date of the order:

“(c) The description of the land as shown in the order:

“(d) The area or approximate area of the land as appearing in the order:

“(e) The name or names of the person entitled under the order, and, if more than one, their several shares or interests in the land.

“(3) On receipt of any such certificate, the District Land Registrar shall proceed to register the same in accordance with the following provisions of this section.

“(4) If the title to the land affected by the order referred to in the certificate is registered or provisionally registered under the Land Transfer Act 1952, the District Land Registrar shall register the certificate against the title in the register or the provisional register, as the case may be.

“(5) If the title to the land is not so registered or provisionally registered, the District Land Registrar shall embody the certificate in the provisional register as a separate folium, and, except as otherwise provided in this section, all the provisions of the Land Transfer Act 1952 as to provisional registration shall apply accordingly.

“(6) On the registration of a certificate under this section, no instrument in respect of the land referred to in the certificate shall thereafter be registered except—

“(a) A mortgage or memorial of charge in favour of Her Majesty or of a State Loan Department; or

“(b) An order made by the Court creating or evidencing a charge in favour of Her Majesty or of a State Loan Department; or

“(c) An order of the Court or other instrument (including a memorandum of lease) transferring, transmitting, or otherwise conferring title to or on any person who has executed any such mortgage or whose interest in the land is subject to any such charge; or

“(d) An instrument evidencing the discharge of any such mortgage or charge or any dealing with it.

“(7) On deposit for registration of the order of the Court constituting the title to any land, the District Land Registrar shall cancel the registration of the certificate given by the Registrar of the Court and, as the circumstances require, shall issue a certificate of title in respect of the land or register the order of the Court in the provisional register, and in either case shall transfer to the appropriate folium of the register or provisional register all entries and memorials then appearing in the register or the provisional register in respect of land comprised in the order of the Court.

“(8) For the purposes of this section, the term ‘State Loan Department’ means any of the following:

“(a) The Public Trust Office:

“(b) The Housing Corporation of New Zealand:

“(c) The Maori Trust Office.”

5. Sinking fund to provide compensation for lessees of Maori land—Section 43 of the principal Act is hereby amended by inserting, after subsection (1), the following subsection:

“(1A) Notwithstanding anything in subsection (1) of this section, the Maori Trustee may from time to time place the whole or any part of any sum referred to in that subsection in any other account or investment instead of the Common Fund of the Maori Trustee’s Account.”

6. Transitional provision—Section 90 of the principal Act is hereby amended by adding, as subsection (2), the following subsection:

“(2) All advances made under section 460 or section 460A of the Maori Affairs Act 1953 that were current immediately before the commencement of this Act shall be deemed to have been made under, and shall be subject to, section 85 or (as the case may require) section 86 of this Act.”

This Act is administered in the Iwi Transition Agency.
